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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,129	12/12/2001	Yeong-Taeg Kim	SAM2.PAU.04	2469
23386 7590 10/21/2008 MYERS DAWES ANDRAS & SHERMAN, LLP 19900 MACARTHUR BLVD. SUITE 1150 IRVINE, CA 92612				
EXAMINER NEWLIN, TIMOTHY R				
ART UNIT		PAPER NUMBER		
2424				
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10/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/021,129

Applicant(s)

KIM, YEONG-TAEG

Examiner

Timothy R. Newlin

Art Unit

2424

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Chris Kelley/
 Supervisory Patent Examiner, Art Unit 2424

Continuation of 3. NOTE: The added language narrows the claims and would require more than a cursory review.

Continuation of 11. does NOT place the application in condition for allowance because: Respecting claims 1-4 and 6-8, Applicant argues that Zigmond, Neel, and Kitsukawa together fail to teach after a count reaches a predetermined number, disabling the digital TV function of the receiver. This traversal is already addressed in the previous Office Action, on page 2. While Zigmond teaches tracking the number of times an ad is displayed, Kitsukawa teaches combining ads with video, which would lead to blocking the combined signal of both ad and video content. (Examiner also notes that the claimed "video data" added by amendment does not distinguish ad content from programming).

Regarding claim 2, Zigmond teaches storing new ads. E.g. col. 8, lines 9-11 teaches providing new ads just-in-time as needed. The triggering of ad insertion referenced in col. 8, lines 29-39 shows that the newly stored ads are transmitted (i.e. re-enabled) even after certain ads have been blocked according to col. 13, lines 40-47. Also see col. 16, lines 44-56 for a discussion of ad transmission and storage options.

In response to Applicant's argument regarding claim 4: guaranteeing a certain number of exposures is not the only context in which Zigmond counts ad displays. Col. 8, lines 25-28 discuss a situation in which advertisers may contract for a predetermined number of ad exposures. In that case, the ad insertion device would output all stored ads in order to fulfill the contract with advertisers; at the same time, an operator would presumably not display ads that aren't paid for, suggesting an upper limit on the number of ads displayed. In addition, Zigmond's claim 22 discloses monitoring the cumulative (i.e. total) number of times a plurality of ads are shown and using that as a factor in the ad selection criteria.

Regarding claim 5, Knudson is merely relied on to teach ads in a banner format, not combining ads and programming content. As explained in the final Office Action, and above with respect to claims 1-4 and 6-8, Kitsukawa discloses combining ads and video.

The arguments regarding claim 12 are addressed above in connection with claims 1-4 and 6-8.

The Applicant's arguments with respect to claims 9-11 and 14 are similar to those already addressed above in connection with claims 1-4 and 6-8 and remain rejected on the same basis.

The obviousness rejections on pages 6-8, 10-14, and 16 of the previous Office Action referred to by Applicant are sound because they detail where each limitation is taught by the references and provide a motivation to combine them that would be evident to one of ordinary skill; in some cases the motivation comes directly from the references themselves (e.g., Zigmond suggests providing ads that are appropriate to the programming content).